

*National Popular Election of the President*  
**National Popular Vote!**

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STATE ADMINISTRATION

Exhibit No. 8

Date 1-31-07

Bill No. SB-290

January 31, 2007

**"Agreement Among the States to Elect the President by Nationwide Popular Vote"**

Honorable Joseph Tropila  
Montana State Senator  
State Capitol  
Helena, MT 59620

Dear Senator Tropila,

The proposed "Agreement Among the States to Elect the President by Nationwide Popular Vote" is a constitutional and politically practical way to implement nationwide popular election of the President—a goal supported by an overwhelming majority of Americans (70% in recent polls).

The National Popular Vote bill has legislative sponsors for the bill in 47 states. It is expected that the bill will have sponsors in all 50 state legislatures in time for the 2007 legislative sessions.

The *New York Times* endorsed National Popular Vote's plan by calling it an "innovative new proposal" and "an ingenious solution" and urging that "Legislatures across the country should get behind it." As the *New York Times* said (March 14):

"The Electoral College distorts presidential campaigns. Candidates have no incentive to campaign in, or address the concerns of, states that reliably vote for a particular party. ... According to estimates by National Popular Vote, the bipartisan coalition making the new proposal, ... only 13 states, with 159 electoral votes, were ... battleground states in 2004. As a result, campaigns and national priorities are stacked in favor of a few strategic states. Ethanol fuel, a pet issue of Iowa farmers, is discussed a lot. But issues of equal concern to states like Alabama, California, New York and Indiana are not."

The *Los Angeles Times* endorsed the plan on June 5. The *Sacramento Bee* endorsed the bill saying "The governor and senators can get this process rolling in other states by acting this session" (June 3). The *Chicago Sun Times* called National Popular Vote's plan "thinking outside the box" and said "It's time to make the change with this innovative plan" (March 1). The *Minneapolis Star-Tribune* said "It's a lot to ask the Legislature to do the right thing and endorse the new compact. But it really should. So should other states—both red and blue—join, for the sake of a better democracy" (March 27). The *Denver Post* said that it is "time to rethink presidential elections" (April 19). Common Cause and Fair Vote (The Center for Voting and Democracy) have also endorsed the plan.

The National Advisory Board of National Popular Vote includes former congressmen John Anderson (R-Illinois and later independent presidential candidate), John Buchanan (R-Alabama—the first Republican elected to represent Birmingham), Tom Campbell (R-

California), and Tom Downey (D–New York), and former Senators Birch Bayh (D–Indiana), David Durenberger (R–Minnesota), and Jake Garn (R–Utah).

### **SHORTCOMINGS OF THE CURRENT SYSTEM**

The major shortcoming of the current system is that voters in two thirds of the states are effectively disenfranchised in presidential elections because they do not live in closely divided “battleground” states. Under the winner-take-all rule, presidential candidates have no reason to poll, visit, advertise, organize, or campaign in states that they cannot possibly win or lose.

Presidential candidates concentrate over two-thirds of their advertising money and campaign visits in just five very close states, and over 99% of their advertising money in just 16 battleground states. The spectator states in presidential elections include six of the nation’s 10 most populous states (California, Texas, New York, Illinois, New Jersey, and North Carolina), 12 of the 13 least populous states (all but New Hampshire); and a majority of the other states.

As Charlie Cook reported in 2004:

“Senior Bush campaign strategist Matthew Dowd pointed out yesterday that the Bush campaign hadn’t taken a national poll in almost two years; instead, it has been polling 18 battleground states.”

Kerry similarly pursued an 18-state strategy in 2004.

Another shortcoming of the current system is a candidate can win the Presidency without winning the most popular votes nationwide. Under the winner-take-all rule that is currently used by 48 states, all of a state’s electoral votes are awarded to the candidate winning the state. A shift of 60,000 votes in Ohio in 2004 would have given Kerry a majority of the electoral votes, despite President Bush’s 3,500,000-vote lead in the nationwide popular vote. A shift of a handful of votes in one or two states would have elected the second-place candidate in five of the last 12 presidential elections. The second-place candidate was elected in 2000, 1888, 1876, and 1824.

Both shortcomings have a single cause—the states’ use of the winner-take-all rule. The winner-take-all rule is not mentioned in the U.S. Constitution. It is not a federal law. It was not the choice of the Founding Fathers and it was used by only three states in the nation’s first presidential election. The winner-take-all rule exists only in state law. States have the power to change their own state laws at any time.

### **HOW THE PROPOSED INTERSTATE COMPACT WOULD WORK**

At the present time, the Electoral College reflects the voters’ *state-by-state* choices for President in 48 states, while reflecting the voters’ *district-by-district* choices in Maine and Nebraska. The United States can have nationwide popular election of the President if the states reform the Electoral College so that it reflects the voters’ *nationwide* choice. This means changing the state laws that establish the state-level winner-take-all rule (or the district-level winner-take-all rule).

Under the state legislation proposed by National Popular Vote, the popular vote counts from all 50 states and the District of Columbia would be added together to obtain a national grand total for each presidential candidate. That is, state election officials would simply perform, in an official manner, the adding-up of the nationwide vote for President that is now performed by almanacs and news media. Then, state elections officials in all states participating in the plan would award their electoral votes to the presidential candidate who receives the largest number of popular votes in all 50 states and the District of Columbia. Under the proposal, no state would

act alone in offering to award its electoral votes to the nationwide winner. Instead, the National Popular Vote plan would take effect only when the plan has been enacted by states collectively possessing a majority of the electoral votes—that is 270 of the 538 electoral votes. This threshold guarantees that the presidential candidate receiving the most popular votes nationwide would win enough electoral votes in the Electoral College to become President. The 270-vote threshold corresponds essentially to states representing a majority of the people of the United States. The result would be that every vote in all 50 states and the District of Columbia is equally important in presidential elections.

The National Popular Vote plan is an interstate compact—a type of state law authorized by the U.S. Constitution that enables states to enter into a legally enforceable contractual obligation to undertake agreed joint actions. There are hundreds of interstate compacts, and each state in the United States belongs to dozens of compacts. Examples of interstate compacts include the Colorado River Compact (allocating water among seven western states), the Port Authority (a two-state compact involving New York and New Jersey), and the Multi-State Tax Compact. Some compacts involve all 50 states and the District of Columbia. Interstate compacts are generally subject to congressional consent.

As an additional benefit, National Popular Vote's plan would eliminate the (unlikely) possibility of faithless presidential electors. The presidential candidate receiving the most popular votes in all 50 states and the District of Columbia would receive a guaranteed majority of at least 270 electoral votes coming from the states enacting the compact, and the nationwide winner candidate would receive additional electoral votes from whatever non-compacting states happened to be carried by the nationwide winner. Thus, in practice, the presidential candidate receiving the most popular votes nationwide would end up with about three-quarters of the electoral votes—more than enough to eliminate the remote possibility that an unfaithful elector could affect the outcome.

Because the presidential candidate receiving the most popular votes nationwide would be guaranteed enough electoral votes in the Electoral College to become President, another benefit of the National Popular Vote plan is that it would eliminate the possibility of a presidential election being thrown into the House of Representatives (where each state would have one vote) and the vice-presidential election being thrown into the U.S. Senate.

Nationwide election of the President would reduce the possibility of close elections and recounts. The current system regularly manufactures artificial crises even when the nationwide popular vote is not particularly close. Even though President Bush was 3.5 million votes ahead of Kerry in 2004 on election night, the nation had to wait until Wednesday to see if Kerry would dispute Ohio's all-important 20 electoral votes. A shift of 60,000 votes in Ohio in 2004 would have given Kerry a majority of the electoral votes, despite President Bush's 3,500,000-vote lead in the nationwide popular vote. Similarly, the disputed 2000 presidential election was an artificial crisis created by one candidate's 537-vote lead in Florida in an election in which the other candidate had a 537,179-vote lead nationwide (1,000 times greater). In the nation's most controversial presidential election, Tilden's 3.1%-lead in the popular vote in 1876 was greater than Bush's substantial 2.8%-lead in 2004; however, a constitutional crisis was created by very small popular-vote margins in four states (889, 922, 1,050, and 1,075). With a single massive pool of 122,000,000 votes, there is less opportunity for a close outcome or recount (and less incentive for fraud) than with 51 separate smaller pools, where a few hundred popular votes can decide the Presidency.

To prevent partisan mischief between the November voting by the people and the mid-December meeting of the Electoral College, the compact contains a six-month blackout period if any state ever wishes to withdraw from the compact. The blackout period starts on July 20 of each presidential election year and runs through the January 20 inauguration. Interstate compacts are contracts. It is settled compact law and settled constitutional law that withdrawal restrictions—very common in interstate compacts—are enforceable because the U.S. Constitution prohibits a state from impairing any obligation of contract.

Under existing law in 48 of the 50 states, the state's electoral votes are cast by a group of presidential electors who were nominated by the political party whose presidential candidate carried their particular states. People nominated for this position are almost invariably long-time party officials or activists. Under the proposed compact, the 270 or more electoral votes possessed by the states belonging to the compact would be cast by a group of 270+ presidential electors nominated by the political party whose candidate won the nationwide vote in all 50 states and the District of Columbia. This group of electors—sufficient to guarantee the election of a President—would reflect the will of the voters nationwide. None of these 270+ presidential electors would be voting contrary to his or her political inclinations or conscience. Instead, the 270+ presidential electors associated with the candidate who won the nationwide vote would simply vote for their own party's presidential nominee (i.e., the nationwide choice of the voters from all 50 states and the District of Columbia). This approach implements the desire of an overwhelming majority of Americans (over 70% in recent polls), namely that the candidate who gets the most votes nationwide should become President.

Some may argue that voters would be uncomfortable with the electoral votes of their state being cast for a candidate that won the national popular vote—but not necessarily their state's vote. However, the public is not attached to the current system. Indeed, less than 20% of the public supports it. A nationwide popular vote for President inherently means that the winner would no longer be determined on the basis of which candidate carries individual states but, instead, on the basis of which candidate receives the most citizen votes in all 50 states and the District of Columbia. All of the 270 (or more) presidential electors from the states enacting the compact will be from the political party associated with the nationwide winner. When these 270+ electors cast their votes for the candidate who received the most votes nationwide, they will be implementing the method of electing the President that has long been supported by an overwhelming majority of Americans; the method that the elected representatives in their state legislature has enacted into law; and the method under which the presidential campaign will have been conducted.

#### **THE STATES' EXCLUSIVE POWER TO AWARD THEIR ELECTORAL VOTES**

The manner of conducting presidential elections is covered in Article II, Section 1, Clause 2 of the U.S. Constitution.

**“Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors....”** (emphasis added).

The constitutional wording “as the Legislature thereof may direct” contains no restrictions. It does not encourage, discourage, require, or prohibit the use of any particular method for awarding the state's electoral votes. In particular, the U.S. Constitution does not mention two of the most prominent present-day features of American presidential elections—the winner-take-all rule (awarding all of a state's electoral votes to the candidate winning the state) and citizen

voting for President. These features were not part of the original Constitution, nor were they installed by any subsequent federal constitutional amendment. Instead, these features were established by state laws that were enacted, over a period of decades, on a state-by-state basis.

The winner-take-all rule was used by only three states when the Founding Fathers went back to their states to organize the nation's first presidential election in 1789. Today, it is used by 48 of the 50 states. A federal constitutional amendment was not required, nor used, to enact the winner-take-all rule in these 48 states. The 48 states simply used the power that the Founding Fathers gave them to enact this particular method for awarding their electoral votes. The states may change their decisions concerning the winner-take-all rule, at any time, by enacting a different state law.

Only half the states participating in the nation's first presidential election gave voters a voice in presidential elections, whereas no state legislature has chosen the state's presidential electors since 1876. A federal constitutional amendment was not required, nor used, to confer the presidential vote on the people. States simply enacted state laws implementing this concept.

The fact that Maine enacted a congressional-district system in 1969 (and Nebraska did the same in 1992) is a reminder that the manner of awarding electoral votes is entirely a matter of state law. Maine and Nebraska did not need a federal constitutional amendment to modify the winner-take-all rule because the winner-take-all rule was never part of the U.S. Constitution in the first place. The legislatures of Maine and Nebraska simply used the power that the Founding Fathers gave the states to decide how to award their electoral votes.

The U.S. Supreme Court has repeatedly characterized the authority of the states over the manner of awarding their electoral votes as "supreme" and "plenary" and "exclusive."

In short, there is nothing in the U.S. Constitution that needs to be changed in order to implement nationwide popular vote of the President. This change can be accomplished in the same manner as the current system was originally adopted—namely the states using their exclusive and plenary power to decide the manner of awarding their electoral votes.

#### **NATIONWIDE POPULAR ELECTION WILL GIVE A VOICE TO SMALL STATES**

It is sometimes asserted that the current system helps the nation's least populous states. It is also sometimes asserted that the small states confer a partisan advantage on one political party. In fact, neither statement is true.

Twelve of 13 smallest states are almost totally ignored in presidential elections because they are politically non-competitive. Idaho, Montana, Wyoming, North Dakota, South Dakota, and Alaska regularly go Republican, and Rhode Island, Delaware, Hawaii, Vermont, Maine, and DC regularly go Democratic. These 12 states together contain 11 million people. Because of the two electoral-vote bonus that each state receives, the 12 non-competitive small states have 40 electoral votes. However, the two-vote bonus is an entirely illusory advantage to the small states. Ohio has 11 million people and has "only" 20 electoral votes. As we all know, the 11 million people in Ohio are the center of attention in presidential campaigns, while the 11 million people in the 12 non-competitive small states are utterly irrelevant. Nationwide election of the President would make each of the voters in the 12 smallest states as important as an Ohio voter. In fact, the vote of every person in the United States would become equally important under the proposed compact.

The fact that the bonus of two electoral votes is an illusory benefit to the small states has been widely recognized by the small states for some time. In 1966, Delaware led a group of 12 predominantly low-population states (North Dakota, South Dakota, Wyoming, Utah, Arkansas, Kansas, Oklahoma, Iowa, Kentucky, Florida, Pennsylvania) in suing New York in the U.S. Supreme Court, arguing that New York's use of the winner-take-all effectively disenfranchised voters in their states. The Court declined to hear the case (presumably because of the well-established constitutional provision that the manner of awarding electoral votes is exclusively a state decision). Ironically, defendant New York is no longer a battleground state (as it was in the 1960s) and today suffers the very same disenfranchisement as the 12 non-competitive low-population states. A vote in New York is, today, equal to a vote in any of these small non-competitive states—all are equally worthless and irrelevant in presidential elections.

#### **NATIONWIDE POPULAR ELECTION WILL MEAN A 50-STATE CAMPAIGN**

In a nationwide vote, presidential campaigns would become 50-state campaigns. Neither Democrats nor Republicans could afford to ignore the concerns and interests of voters in spectator states such as California. The Democratic Party would suddenly care about whether it won California by 55% or 60% and would therefore campaign in California. Similarly, the Republican Party would have to campaign in California in order to win as many popular votes as possible.

Although it is sometimes conjectured that a national popular election would focus only on big cities, it is clear that this would not be the case. Evidence as to how a nationwide presidential campaign would be run can be found by examining the way presidential candidates *currently* campaign *inside* battleground states. Inside Ohio or Florida, the big cities do not receive all the attention, and they certainly do not control the outcome. Because every vote is equal inside Ohio or Florida, presidential candidates avidly seek out voters in small, medium, and large towns. The itineraries of presidential candidates in battleground states (and their allocation of other campaign resources) demonstrate what every gubernatorial or senatorial candidate in Ohio and Florida already knows—namely that when every vote matters, the campaign must be run in every part of the state.

Further evidence of the way a nationwide presidential campaign would be run comes from national advertisers who seek out customers in small, medium, and large towns of every small, medium, and large state. A national advertiser does not write off Indiana or Illinois merely because a competitor has an 8%-edge in sales in those states. Moreover, a national advertiser enjoying an 8%-edge over its competitors does not stop trying to make additional sales in Indiana or Illinois. National advertisers go after every single possible customer, regardless of where the customer is located.

Although no one can accurately predict how a presidential campaign would be run if every vote were equal throughout the United States, it is clear that candidates would have to run a 50-state campaign. In round numbers, both major-party candidates (and their closely allied supporting groups) had about a half billion dollars at their disposal in 2004 (that is, an average of about \$1 million for each of the nation's 435 congressional districts). Candidates have time for about 450 campaign visits during a three-month presidential campaign (that is, an average of about one visit in each of the nation's 435 congressional districts).

Under a nationwide vote, each presidential campaign would have to reallocate its limited campaigning resources over all the nation's 435 congressional districts. Because every vote

would be equally important throughout the United States under the National Popular Vote plan, candidates would allocate, on average, one visit to each congressional district and \$1,000,000. Thus, a small state such as Idaho with two congressional districts could reasonably expect two visits from both the Democratic and Republican candidates. Currently, of course, Idaho receives no attention from either party because the Republican candidate has nothing to gain, and the Democratic candidate has nothing to lose, in Idaho. Although Idaho would undoubtedly continue to deliver a statewide majority to the Republican presidential candidate, every vote in Idaho would suddenly matter to both the Democrat and the Republican candidates. It would be folly for John Kerry to write off Idaho because he would care if he lost Idaho by 227,000 versus some smaller or larger number. Similarly, it would be folly for George Bush to take Idaho for granted because he would care if he won by 227,000 versus some larger or smaller number. As the *Idaho State Journal* editorialized in 2004,

“As we enter the home stretch of the quadrennial horse race known as the presidential election, it’s time to remember that this is an election for the president of the United States of America—all 50 states, not an election for the president of the Swing States of America.”

#### **NATIONAL POPULAR VOTE EXPECTS TO HAVE SPONSORS IN ALL 50 STATES FOR THE 2007 LEGISLATIVE SESSION**

Since National Popular Vote’s initial press conference in February 2006, the proposed interstate compact has passed in the Colorado Senate (April 17), the California Assembly (May 30), and the California Senate (August 22). The bill was vetoed in California on September 30.

The bill was filed during 2006 in six states.

In New York, five Republican Assembly members introduced National Popular Vote’s bill (A11563). The sponsors include Assemblyman Fred W. Thiele, Jr. (Republican, Independence, Working Families–Sag Harbor); Assemblyman Jim Bacalles (Republican, Conservative–Corning); Assemblyman Joe Errigo (Republican, Conservative–Conesus); Assemblyman Andrew Raia (Republican, Conservative, Independence, working Families–East Northport); Assemblywoman Teresa Sayward (Republican, Independence, Conservative–Willsboro).

In the Illinois Senate, the bill (SB 2724) is sponsored by Senators Jacqueline Collins (D), Kirk W. Dillard (R and Du Page County Republican Party Chair), James T. Meeks (I). The Senate bill now has seven sponsors. In the Illinois House, the bill (HB 5777) is sponsored by Representatives Robert S. Molaro (D) and Jim Durkin (R). The House bill now has 29 sponsors.

In Missouri, the bill (HB 2090) is sponsored by Representative Robert Johnson (R) and Representative Jeff Roorda (D). An informational hearing was held on April 25.

On April 17, the Colorado State Senate passed the National Popular Vote plan (SB 223). Among the Senators voting for the bill were original Senate sponsors Ken Gordon (D), John Evans (R), and Lew Entz (R).

In California, the bill (AB 2948) was sponsored by Assembly members Tom Umberg (chair of the Assembly Elections Committee), Mervyn M. Dymally, John Laird, Loni Hancock, Mark Leno, and Ted W. Lieu and Senator Jack Scott. The bill was managed in the California Senate by Senator Debra Bowen (who was elected California Secretary of State in November 2006).

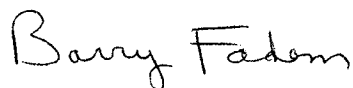
In Louisiana, the National Popular Vote bill (HB 927) was approved by the House and Governmental Affairs Committee on May 10.

## ADDITIONAL INFORMATION ABOUT THE NATIONAL POPULAR VOTE PLAN

Additional information is available at [www.NationalPopularVote.com](http://www.NationalPopularVote.com).

The National Popular Vote proposal is described in detail in our 620-page book *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote*. The book is available to be read or downloaded, for free, at [www.every-vote-equal.com](http://www.every-vote-equal.com). Chapter 6 of the book describes the proposed interstate compact in detail.

Yours truly,

A handwritten signature in cursive script that reads "Barry Fadem".

Barry Fadem, President

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# The New York Times

## Drop Out of the College

New York Times Editorial

March 14, 2006

The Electoral College is an antidemocratic relic. Everyone who remembers 2000 knows that it can lead to the election of the candidate who loses the popular vote as president. But the Electoral College's other serious flaws are perhaps even more debilitating for a democracy. It focuses presidential elections on just a handful of battleground states, and pushes the rest of the nation's voters to the sidelines.

There is an innovative new proposal for states to take the lead in undoing the Electoral College. Legislatures across the country should get behind it.

Both parties should have reason to fear the college's perverse effects. In 2000, the Democrats lost out. But in 2004, a shift of 60,000 votes in Ohio would have elected John Kerry, even though he lost the national popular vote decisively.

Just as serious is the way the Electoral College distorts presidential campaigns. Candidates have no incentive to campaign in, or address the concerns of, states that reliably vote for a particular party. In recent years, the battleground in presidential elections has shrunk drastically. In 1960, 24 states, with 327 electoral votes, were battleground states, according to estimates by National Popular Vote, the bipartisan coalition making the new proposal. In 2004, only 13 states, with 159 electoral votes, were. As a result, campaigns and national priorities are stacked in favor of a few strategic states. Ethanol fuel, a pet issue of Iowa farmers, is discussed a lot. But issues of equal concern to states like Alabama, California, New York and Indiana are not.

The Electoral College discourages turnout because voters in two-thirds of the nation know well before Election Day who will win their states. It also discriminates among voters by weighing presidential votes unequally. A Wyoming voter has about four times as much impact on selecting that state's electors as a California voter does on selecting that state's.

The answer to all of these problems is direct election of the president. Past attempts to abolish the Electoral College by amending the Constitution have run into difficulty. But National Popular Vote, which includes several former members of Congress, is offering an ingenious solution that would not require a constitutional amendment. It proposes that states commit to casting their electoral votes for the winner of the national popular vote. These promises would become binding only when states representing a majority of the Electoral College signed on. Then any candidate who won the popular vote would be sure to win the White House.

The coalition is starting out by trying to have laws passed in Illinois and a few other states. Americans are rightly cautious about tinkering with mechanisms established by the Constitution. But throughout the nation's history, there have been a series of reforms affecting how elections are conducted, like the ones that gave blacks and women the vote and provided for the direct election of United States senators. Sidestepping the Electoral College would be in this worthy tradition of making American democracy more democratic.

## **We vote for a fairer way to decide national elections**

Chicago Sun-Times editorial

March 1, 2006

Calls to reform or abolish the Electoral College hit a fever pitch after the 2000 presidential election, when Al Gore won the popular tally but didn't have enough votes in the right states to carry the electoral vote. That call quieted somewhat after the 2004 election, when President Bush won the popular vote but still could have lost the election if John Kerry had won Ohio. Despite interest in reform, nothing has happened, mostly due to the difficulty in amending the Constitution.

Now a bipartisan commission, whose members include former Rep. John Anderson (R-Ill.) and former Sen. Birch Bayh (D-Ind.), has proposed an idea to retain the Electoral College while still ensuring it reflects the will of the majority of voters. The Sun-Times News Group backs the concept and applauds the National Popular Vote group for thinking outside the box.

The group's plan is to get enough states to agree to give all their electoral votes to the national vote winner, regardless of the results in their individual states. Under the proposal, each state would pass laws to change the way their electoral votes are awarded, a process the Constitution leaves for the states to set. They would also enter an interstate compact with other states that make the same change, agreeing that the new system won't take effect until states representing 270 electoral votes -- the number needed to carry the Electoral College -- have joined.

In Illinois, the plan is backed by a group that includes state Senators Jacqueline Collins, a Chicago Democrat, and Kirk Dillard, a Hinsdale Republican and chairman of the DuPage County Republican Party.

Using such a system in the last election would have meant Bush won all of Illinois' electoral votes, even though Kerry easily carried the state. If that sounds strange, it's no stranger than Illinois and other populous states being virtually ignored by both parties during the last campaign, since one candidate or the other had them locked so early. That likely hurt the turnout in those noncompetitive states, affecting elections further down the ticket.

What of awarding electoral votes by the top vote-getter in each congressional district, as is currently done in Nebraska and Maine? That would simply set up a situation where candidates concentrate on a small number of battleground districts, because, thanks to gerrymandering, most districts are noncompetitive.

Republicans may be hardest to persuade to support this plan, over fears that large urban centers that tend to vote Democratic will dominate elections. But that wasn't an impediment to Bush's re-election. And polls show most Americans want the president to be elected by the popular vote. It's time to make the change with this innovative plan.

*This editorial represents the view of the Sun-Times News Group of 100 newspapers in the Chicago metro area.*

# StarTribune.com

Minneapolis - St. Paul, Minnesota

## How to drop out of the Electoral College:

### There's a way to ensure top vote-getter becomes president

Editorial—Minneapolis Star Tribune

March 27, 2006

This country could form a more perfect union by accepting a novel idea: that the president of the United States should be elected by the people of the United States.

That's not the way it's done, of course, and, given the Constitution's enshrinement of the Electoral College, things aren't likely to change. To quit the college would take approval of two-thirds of both houses of Congress and three-quarters of state legislatures, so fuggedaboutit.

But now comes a gaggle of bipartisan reformers with a cheeky idea worth considering. What if legislatures, one by one, entered their states into an interstate compact under which members would agree to award their electoral votes to the winner of the national popular vote? The compact would kick in only when enough states had joined it to elect a president—that is, when a majority of the 538 electoral votes were assembled. As few as 11 states could ensure that the candidate with the most popular votes nationally would win the presidency. As a result, the Constitution and the Electoral College would stay intact, but the college's fangs would be removed.

That approach would be more democratic than current practice. Recall that Al Gore lost the 2000 election to George W. Bush despite getting a half-million more popular votes, and that Bush nearly lost the 2004 election despite getting 3 million more popular votes (a shift of only 60,000 votes in Ohio would have thrown the election to John Kerry). So, both parties have reason to fear the college's distortions.

That the Electoral College has “worked” in all but one election since 1888 isn't a good enough reason to stay with the status quo. The college has a perverse impact on campaigns. With no incentive to compete in states that are predictably red or blue, candidates concentrate on the battleground states—only 13 of them in 2004, down from 24 in 1960. That's not the national campaign voters deserve. In the last election, 92 percent of campaign events took place in just 13 states, which also absorbed 97 percent of advertising during the campaign's final month. Three dozen red and blue states as large as California, New York and Texas and as small as Delaware, Utah and Wyoming were mere spectators.

Now that Minnesota is a battleground getting lots of attention, it's a lot to ask the Legislature to do the right thing and endorse the new compact. But it really should. So should other states—both red and blue—join, for the sake of a better democracy.

## **States join forces against electoral college**

**A piecemeal approach may be the only way to kill the anachronistic institution**

Los Angeles Times Editorial

June 5, 2006

A PROPOSED EXPERIMENT with majority rule has generated plenty of naysayers who apparently think that some nations are simply too immature to let people directly choose their own leaders. But we say the United States is ready for real democracy.

The experiment is the National Popular Vote campaign, which intends to undermine the Constitution's anachronistic Electoral College. If the campaign succeeds, future presidents will take office only if they win the popular vote nationwide.

The ingenious scheme was developed by John R. Koza, a Stanford professor who also invented the scratch-off lottery ticket. It calls on state legislatures to pass a measure dictating that all the electoral votes from that state go to the winner of the national popular vote. It goes into effect only if enough states approve it to represent a majority of the electoral votes. In other words, if states that represent at least 270 of the 538 electoral votes all approve the measure, the winner of the popular vote nationwide would automatically win the presidency. It thus renders the Electoral College moot without eliminating it.

This kind of end run is necessary because the only way to get rid of the Electoral College entirely is via a constitutional amendment, which would be nearly impossible to pass. Enough small states benefit from the current system to block an amendment. The beauty of this approach is that each state is constitutionally allowed to allot its electoral votes as it sees fit. The measure was approved by California's Assembly on Tuesday and is pending in four other states; backers hope to get it before all 50 states by January.

Anyone wondering why he should care about the Electoral College need look no further than the 2000 election, when George W. Bush won the presidency despite getting about half a million fewer votes than Al Gore. If that makes conservatives think they should be thankful that the majority doesn't always rule in the United States, they should think again. The same thing nearly happened in reverse in 2004. If John Kerry had picked up a mere 60,000 more votes in Ohio, he would have won — even though Bush took in 3 million more votes overall.

The Electoral College doesn't skew just election results; it skews elections. Candidates know they don't have to campaign in states that either clearly favor them or clearly don't; they have to focus only on swing states. In the 2004 campaign, Bush and Kerry spent a great deal of time brushing up on agricultural policy and other issues of vital concern in Iowa, while ignoring matters important to people in states such as California, Texas and New York.

Opponents argue that the current system ensures that smaller states continue to have a say in setting national policy. But the U.S. Senate already gives Delaware every bit as much clout as California. Any method besides majority vote empowers some citizens at the expense of others and makes the president beholden to minority interests.

At its inception, the United States was, well, a union of states. But it is now one nation, and our president should be elected by the citizens of that nation, not by its constituent states. To argue otherwise is to say that some Americans should have more power to elect a president than others simply because of where they live. Remember, all men are created equal. Including Californians and New Yorkers.

<http://www.latimes.com/news/printedition/opinion/la-ed-college05jun05,1,6822980.story>

# The Sacramento Bee

## Editorial: Rx for U.S. elections

### States can assure the popular vote rules

Saturday, June 3, 2006

The election of the U.S. president should reflect the directly expressed will of the American people. But it doesn't.

The current Electoral College system can produce perverse results: A candidate can lose the popular vote and win the Electoral College vote and, thus, the presidency. That has happened several times in American history, most recently in 2000. With the nation so closely divided politically, this is likely to be an ongoing problem, undermining the legitimacy of our presidential elections.

It doesn't have to be that way.

Polls for the last 30 years have shown that Americans overwhelmingly support direct election of the president, but Congress hasn't budged on a constitutional amendment.

A new campaign, "National Popular Vote," spearheaded by several former members of Congress, including California's Tom Campbell (most recently Gov. Arnold Schwarzenegger's finance director), has a creative way to get the same result.

The campaign uses an old mechanism -- an interstate compact -- to achieve the direct election of the president. The idea is modeled on existing interstate compacts, such the Colorado River Compact, which divides water among seven Western states. The compact depends on states changing their own rules for dividing up their electoral votes.

We'd prefer a constitutional amendment simply abolishing the Electoral College, but this state-by-state reform is an achievable second-best solution to a defective product that even the Founding Fathers regarded wearily and warily.

The strongest arguments at the 1787 Constitutional Convention favored direct election of the president by the people. Proponents wanted the president to be the "guardian of the people" and as independent as possible of Congress and the states. But the delegates were hopelessly divided between direct election by the people and election by Congress.

The Electoral College was a last-minute compromise, reached under what James Madison called the "hurrying influence produced by fatigue and impatience." The Electoral College has been patched many times since.

The interstate compact proposal wouldn't abolish the Electoral College, but at least it would ensure that it reflects the national popular vote.

Election officials in the compact states would award all of their electoral votes to the candidate receiving the greatest number of votes nationally.

Clearly, one state could not do this on its own. So each of the states has the same 888-word bill entering into a binding interstate compact (you can find the text at [www.nationalpopularvote.com](http://www.nationalpopularvote.com)). States would join the agreement one by one. The compact would take effect only after enough states joined to represent a majority of Americans and electoral votes -- 270 of the 538 electoral votes.

So far, the bill has been introduced in five legislatures -- California, Illinois, Colorado, Missouri and Louisiana. The campaign's goal is 10 states by the end of 2006 and enough states by the end of 2007 to make direct election the governing rule for the 2008 presidential election.

In California, the Assembly approved the bill Tuesday. Because California has such strong influence nationally, the governor and senators can get this process rolling in other states by acting this session. Otherwise, in presidential elections, unhappy Americans are bound to continue paying for the Founding Fathers' fatigue.

*National Popular Election of the President*  
**National Popular Vote!**  
www.NationalPopularVote.com

**January 31, 2007**

**"Agreement Among the States to Elect the President by Nationwide Popular Vote"**

The National Popular Vote bill (SB290) would guarantee that the presidential candidate who receives the most votes in all 50 states will win the Presidency. This bill is sponsored by Senators Rick Laible and Jesse Laslovich and Representatives Rep. Walter McNutt and Hal Jacobson.

Montana uses the so-called winner-take-all rule that awards all of its electoral votes to the presidential candidate who receives the most popular votes in each state.

The main shortcoming of the current system of electing the President is that presidential candidates have no reason to poll, visit, advertise, organize, campaign, or worry about the concerns of voters of states that they cannot possibly win or lose. Presidential candidates do not poll in Montana, do not visit Montana, and do not need to worry about Montana issues in order to be elected. Voters in two thirds of the states are similarly disenfranchised. Candidates concentrate their attention on a very small handful of closely divided "battleground" states. Presidential candidates concentrate over two-thirds of their advertising money and campaign visits in just five states, and over 99% of their advertising money in just 16 states. The spectator states in presidential elections include 12 of the 13 least populous states (all but New Hampshire); and a majority of the other states.

A second shortcoming of the current system is that a candidate can win the Presidency without winning the most popular votes nationwide. A shift of 60,000 votes in Ohio would have elected Kerry as President—even though President Bush was ahead by 3.5 million votes nationwide in 2004. A shift of a handful of votes in one or two states would have elected the second-place candidate in five of the last 12 presidential elections.

Twelve of 13 smallest states are almost totally ignored in presidential elections because they are politically non-competitive. Idaho, Montana, Wyoming, North Dakota, South Dakota, and Alaska regularly vote Republican, and Rhode Island, Delaware, Hawaii, Vermont, Maine, and DC regularly vote Democratic. These 12 states together contain 11 million people. Because of the two electoral-vote bonus that each state receives, these 12 non-competitive small states have 40 electoral votes. However, the two-vote bonus is an entirely illusory advantage. Ohio has 11 million people and has "only" 20 electoral votes. As we all know, the 11 million people in Ohio are the center of attention in presidential campaigns, while the 11 million people in the 12 non-competitive small states are utterly irrelevant. Nationwide election of the President would make all of the voters in the 12 smallest states as important as an Ohio voter.

The Founding Fathers gave the states exclusive and plenary (complete) control over the manner of awarding of their electoral votes. The states may change their state laws concerning the awarding of their electoral votes at any time. The winner-take-all rule is not in the U.S. Constitution. It was used by only 3 states in the nation's first presidential election. Maine and Nebraska currently award electoral votes by congressional districts.

Under the National Popular Vote bill, all of the state's electoral votes would be awarded to the presidential candidate who receives the most popular votes in all 50 states and the District of Columbia. The bill would take effect only when enacted, in identical form, by states possessing a majority of the electoral votes—that is, enough electoral votes to elect a President (270 of 538).

70% of the public has long supported nationwide election of the president.